

William Shane

Subject:

FW: Rise Extended Hour request

Good Morning Tobey,

The Planning Board meeting Tuesday evening did not yield a good result for your request. We had 4 Councilors there who heard multiple complaints about your business. I'd suggest you watch the meeting to hear specific issues. The Planning Board voted 6-0 against the request to extend the hours of operation in the Town Center District Zone. (see meeting video below)

<https://www.youtube.com/watch?v=qyacYfDnGnQ>

Monday night the Town Council will decide on of the following courses of action:

1. To move forward with the Public Hearing and decide to allow the 11 PM closure or a modified version despite the Planning Board 6-0 recommendation against any change. This action is unlikely.
2. Move to hold a neighborhood meeting and discuss concerns with the neighbors to see if any compromise action could be found. This is a possibility.
3. Move to accept the Planning Boards Recommendation and table indefinitely the request for extended hours. This is a possibility.

Your input at this time is critical in the decision process. Attending and participating in this item is important and giving direct feedback will help the Council decide how to proceed. The Town Council did their job. The request was properly noticed, sent to the Planning Board for a recommendation and that recommendation forwarded back to the Town Council for action. The residents were upset because they did not receive notice personally about the item. That is not required by law, and I will say was a mistake on the Town's part that will be corrected in the future.

The items raised Monday will need to be rectified if they are true. If lighting is trespassing onto neighboring properties that is not allowed and will need to be rectified. Bill Longley will be checking light levels next week. Also, lights are to be turned off when the business is closed. The reports are the lights have been on when you are not open and well after closing hours as late 11PM and 12 midnight. That needs to be addressed immediately. Please check the noise levels on your ventilation fans too. They are regulated by ordinance and cannot exceed 75 db at the property line. I don't believe that has ever been an issue but was raised at the meeting.

I hope you will be able to attend Monday evening and participate in the Council meeting which begins at 7 PM, Monday, March 25th at Town Hall. Please let me know if you would like to discuss this further. Bill Longley will be in touch with you to discuss the potential noise and lighting complaints and try and help to find a positive resolution.

I don't feel any of these items are insurmountable. The change in business and ownership has been an adjustment and I think this business/residential mixed-use zone will only be successful if we can find strategies that will be workable for both businesses and neighbors. It really does start with communication and meetings that are intended to find solutions not erect roadblocks. We will be willing to help you regardless of Monday's outcome and we all want you to be successful on Main Street. Please understand you are an important business in our Town.

Sincerley,
Bill

**CUMBERLAND PLANNING BOARD
NOTICE OF DECISION**

Date: March 20, 2024

To: William Shane, Town Councilor

From: Carla Nixon, Town Planner

RE: Public Hearing: Amendment to the Zoning Ordinance and act upon recommendations of the Town Council on amendments to Chapter 315 -Zoning Ordinance, Section 21-Town Center District F (6) Hours of Operation, as recommended by the Ordinance Committee.

This is to advise you that on Tuesday, March 19, 2024, the Cumberland Planning Board conducted a Public Hearing to receive comments on providing a recommendation to the Town Council on proposed amendments to the Zoning Ordinance, Ch. 315, Section 21-Town Center District, F, (6) Hours of Operation. Public comments provided in writing and verbally were all against recommending approval of the amendment. The Planning Board voted unanimously to recommend that the Town Council does not approve the proposed amendments.

Cumberland Planning Board

Peter Bingham, Chair

Memorandum

To: Planning Board

Re: Planning Board Agenda Item # 1: Recommendation to Town Council on Change to Town Center District Hours of Operation.

From: Carla Nixon, Town Planner

Date: March 14, 2024

This is a request for a recommendation from the Town Council on a proposed change to the Town Center District (TCD) ordinance relating to hours of operation.

The request was made by the current owner and operator of Rise Pizza. The change, if approved, would also extend hours of operation to all other non-residential uses in the district. This would include Dara Restaurant and the Food Stop, as well as any other non-residential uses such as professional offices.

By way of background, the TCD replaced the previous Medium Density Residential District (MDR) in 2010 in an attempt to create a more diverse “Main Street” that would allow limited non-residential uses. There was particular attention paid to the impact of a new proposed use: Cafes. The Town Center Advisory Committee proposed that there be performance standards that would mitigate any negative impacts of the new use on abutting residential properties. Please refer to the attached Town Center District to see how, through restrictions on size, hours of operation, outdoor seating, ventilation, signage, parking, outdoor seating, deliveries, and noise limits, this was accomplished.

There will likely be residents at the meeting to express their concern about the proposed change. I have spoken with several so far who see this proposed change as a “slippery slope” that will adversely affect their quality of life.

To: Cumberland Town Council

Re: Zoning Change to allow late night hours of operation in the Town Center District

If something ain't broke don't "fix" it! Cumberland Center's current 9 pm closing time for businesses was carefully established in order to preserve our mixed-use neighborhood's unique character and quality of life for residents and businesses alike. And it's worked very well for many years.

Only one business, Rise Pizza & Pub, requested the zoning change to the late closing hour of 11 pm. Why would the Town give favored status to Rise so it can be more of a late night bar and less of a "family friendly" restaurant?! Late night patrons at bars tend to be more intoxicated, less inhibited and generally a rowdier crowd generating more public disturbances, complaints, and the need for police action.

Suddenly amending our district's zoning to allow extended hours until 11 pm at all existing and future businesses (including more bar-restaurants potentially) would be a shortsighted and misguided change with the potential for serious, negative impacts on our quality of life in our beloved homes, while downgrading residential property values.

Already at Rise Pizza & Pub we've seen intensely bright, unshielded lights installed in violation of the town's ordinance (since improved somewhat after town enforcement but still brighter than allowed by code and illuminating my home and others). While town regulations require lights to be shut off when the business is closed, the exterior lights at Rise have been staying on well after 11 every night of the week. Extending operating hours later at night will only make this non-compliant situation worse.

We're already getting more activity and noise later at night at Rise than when Louie's was there. (Jim closed at 9 and his employees were usually out by 9:30 or so.) While currently Rise is required to stop serving food and drink at 9, there have been some nights on occasion when I've heard employees leaving at 10:45 pm. If hours were to be extended to customers until 11 pm, does that mean we could expect to hear employees leaving as late as 12:45 am?

At Rise, several cars regularly "back in" to park in the far corner of the lot nearest the school where their tailpipes are just twenty feet or so from my condo. As a result, I get stinky exhaust fumes wafting across my patio and in my bedroom window, especially when cars are idling for prolonged periods, a frequent occurrence. I certainly would hate to have this unhealthy situation extended even later than it already is!

As residents we should not have to endure the sounds of yelling, slamming doors, loud sound systems, car alarms and revving engines late at night, or the smells of exhaust and smoke interfering with our right to be able to enjoy our homes and sleep in peace.

Please listen to your constituents and the Planning Board's unanimous recommendation.

Please vote NO on late night hours in the Town Center District! Thank you.

-Lee Buffinton, 10 Village Way, Cumberland Center, Maine

March 21, 2024

Dear Town Council,

I was very saddened and discouraged to hear that the town is considering changing the ordinance in the Town Center District to allow businesses to stay open until 11:00 P.M. I am a resident of 321 Main Street and the northern abutter of Rise Pizza and Pub.

Having now lived on Main Street for twenty years, I have seen many changes occur in the center of town — perhaps the most significant being a zone change. When we first moved to Cumberland, we purchased a home in a residential zone. At the time, we very consciously looked for a home in a residentially zoned village center where our children could walk to school, we could garden, could enjoy our yard and participate in a lively neighborhood environment.

Following a number of development projects where contract zoning was implemented to allow businesses to locate and operate in an otherwise residential zone, in 2011 the Town Council decided to change the entire Town Center District zoning from residential to mixed use business and residential. Despite our worries as homeowners about the impact on our homes and lives, the council explained that this change would allow for better oversight, design standards and solid ordinances which would be in keeping with the spirit of Main Street and accommodate both residential life and businesses.

Part of my frustration is that when the zone change occurred, The Town Council, The Planning Board, and Main Street residents had numerous, collaborative meetings during which we discussed and generated business rules and guidelines that would answer the needs of all people involved. We were concerned about noise, light leakage and buffering. Over the course of many meetings we were able to devise reasonable hours of operation, delivery times, rules about lighting, buffering, types of business etc. It felt like the town cared about the residential life quality while still allowing businesses to be operational. At this point a random consideration to change the ordinance just because a new business owner has requested it feels like a breach of agreement and trust that we put in the town to devise a livable and business appropriate town center.

For ten years, Louie's Grill operated successfully within the parameters of the ordinances. As neighbors, we had a wonderful and fun relationship with Jim Guidi, the owner of Louie's. Since the sale of Louie's and the arrival of Rise Pizza and Pub, however, we have seen a string of issues that have not easily been resolved. The difficulty of the business transition became apparent when the

current owners installed very bright and invasive lighting. When I approached the owner with my concerns, he was uninterested in working with me to make things better. I asked the town to intercede, which they did. The lights were changed although they are still bright enough to be invasive.

It is clear that the current owner is not committed to uphold current ordinances. According to business rules, lights are meant to be turned off after hours of operation - of course there is some lag in a restaurant where clean up must occur once the business is closed, however the lights continue to burn brightly at Rise until after midnight. These lights illuminate the inside of our home and are glaring in our backyard.

If Rise Pizza and Pub is allowed to remain open until 11:00 P.M., the parking lot lights and front sign illumination will be on until well past midnight into the early morning hours. I imagine that most people who are Rise customers past 9:00 PM are primarily drinking and, as is currently the case earlier in the evening, people will leave the pub, stand in the parking lot talking and laughing loudly, slam car doors and start engines.

We have a lovely garden and in-ground pool (people frequently describe our yard as an oasis) which shares the fence with Rise Pizza whose parking lot is a mere few feet away. If Rise is allowed to remain open until 11:00 we will have no quiet time in our own yard and patio during the blissful summer months without glaring lights, parking lot noise, loud public conversations and the smell of employees' cigarettes and pot, a now frequent addition with this new business.

Please deny the request for businesses to remain open until 11:00 P.M. and hold true to your commitment to protect the spirit of Main Street and continue to oversee that this area is livable and lovely for both residents and business alike.

Thank you for your consideration,

Sincerely,

Carolyn Currie
321 Main Street
Cumberland, ME

From: Jim Mallar <jalinop@aol.com>
Sent: Tuesday, March 19, 2024 2:48 PM
To: Carla Nixon <cnixon@cumberlandmaine.com>
Subject: Zoning change meeting.....

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March 19, 2024

To Carla Nixon, Town of Cumberland
Town Council
Planning Board

I am writing you all out of concern for the proposed change of hours for businesses in the Cumberland Center Business District. Specifically allowing businesses to be open extended hours to 11:00PM. We live on Village Way directly next to Rise Pizza and Pub. Village Way is a community of 6 residential condos that are 55+ age restricted. The only thing that separates us from Rise Pizza and Pub is a wooden fence which is supposed to be maintained by Rise. This has not been done according to the original agreement. (it has some broken posts, which were not replaced but reinforced by using metal poles last fall)

We are a residential neighborhood primarily single family homes. Extending hours past 9:00PM would change that whole dynamics. It adds vehicles and all the noises associated with it....revving of engines, trucks, motorcycles, horns, barking dogs left inside vehicles, slamming of car doors, car alarms (the most annoying) and people talking with particularly loud and boisterous voices. The Business District hours were set years ago in a compromise with residents and businesses. Both have thrived in the years that this compromise has been in place. Now making that change would be a detriment to those private residents.

We knew the rules when we purchased our condo. Rise knew the rules when they bought the restaurant. Unless everyone in the neighborhood wants the rules to change, they should stay in place as the original agreement states. Please do not allow this late night change based on the request of 1 or maybe 2 businesses.

Thank you for listening to two concerned (and elderly) citizens.

Jim and Debbie Mallar
Village Way
Cumberland, Maine

From: Contact form at cumberlandme <cmsmailer@civicplus.com>
Sent: Tuesday, March 19, 2024 8:17 AM
To: Carla Nixon <cnixon@cumberlandmaine.com>
Subject: [cumberlandme] Town Center District Zone change (Sent by Lori Legere, houselady512@yahoo.com)

WARNING: This is an external email that originated outside of our email system. DO NOT CLICK links or open attachments unless you recognize the sender and know that the content is safe!

Hello cnixon,

Lori Legere (houselady512@yahoo.com) has sent you a message via your contact form (<https://www.cumberlandmaine.com/user/21/contact>) at cumberlandme.

If you don't want to receive such e-mails, you can change your settings at <https://www.cumberlandmaine.com/user/21/edit>.

Message:

Good Morning,

I recently learned that Rise Pizza and Pub has requested a zoning change to allow it to remain open until 11pm on certain days, 2 hours later than the now 9pm time. I have lived in a condo adjacent to "Rise" (parking lot side) for 5 years and there have not been any issues when it was "Louis".

When the new owner took over, they expanded the Bar significantly and now it has the feel of a Bar rather than a family gathering space/ restaurant.

The noise, traffic lights and trash this late night will produce is not fair to those of us that were given the information that "the restaurant behind you closes at 9pm". I could live with that and we did go to "Louis" often.

If I had been told the restaurant closed at 11pm I most likely would not have purchased it.

I wish "Rise" success as I support small local businesses, but they purchased the property knowing the rules in place and now want to change them, which is not what good neighbors do.

I request the hours remain the same in the zone, Thank you,
Lori Legere
8 Village Way
Cumberland

From: Jessica Privler <jprivler@yahoo.com>
Sent: Tuesday, March 19, 2024 8:45 AM
To: Carla Nixon <cnixon@cumberlandmaine.com>
Subject: Main Street

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Good morning,

My family and I recently moved to Main Street in Cumberland Center. We love the proximity of the school for our children, the small businesses, the quiet neighborhoods, and the feeling of community. Please keep in mind the residents and our desire to maintain our quiet neighborhoods when considering the proposal for allowing businesses to stay open until 11:00 p.m. It is simply too late for a small town like ours; had we wanted nightlife, we would have chosen Portland.

Thank you.

Best regards,

Jessica Privler
324 Main St